

December 1, 1999

MAINE PUBLIC UTILITIES COMMISSION  
Investigation of Stranded Costs, Transmission  
And Distribution Utility Revenue Requirements,  
And Rate Design of Maine Public Service Company

ORDER APPROVING  
STIPULATION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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## **I. SUMMARY**

We approve a stipulation that resolves all disputed issues in this investigation. By the settlement, the parties agreed that Maine Public Service Company's (MPS) T&D revenue requirement, exclusive of stranded costs, shall be approximately \$16,640,000. As part of the revenue requirement, the parties agreed that MPS's cost of equity is 10.7%, with a 51% equity ratio. The parties agreed to a "top-down" methodology for establishing MPS's core class rate design. The parties also agreed to the proper design of the T&D version of Rate B, MPS's standby rate.

## **II. INTRODUCTION AND PROCEDURAL HISTORY**

In this case, the Commission implements the legislative directive in the Electric Restructuring Act (35-A M.R.S.A. §§ 3201-3217) to establish Maine Public Service Company's rates for the start of retail choice on March 1, 2000. On that date, electric generation retail service becomes subject to competition rather than rate regulation. The delivery of electricity will remain regulated as a utility service.

The Restructuring Act requires each electric utility to divest generation-related assets and businesses. The Commission must conduct adjudicatory proceedings to determine for each utility the generation costs stranded by restructuring. In the same proceeding, the Commission must determine the revenue requirement for the remaining transmission and distribution (T&D) utility and the stranded cost charges that will be collected through the T&D rates. 35-A M.R.S.A. § 3208(8). These adjudicatory proceedings must be concluded by December 1, 1999. *Id.*

The Commission must also design rates to recover the revenue requirement for T&D costs, stranded costs, and any other costs required by the Act to be recovered through T&D rates. The Act also requires the Commission to design rates for backup or standby service. These rate design adjudicatory proceedings must be completed by December 1, 1999. 35-A M.R.S.A. § 3209.

This investigation was initiated by the Commission on August 5, 1998 in order to fulfill our obligation to determine MPS's T&D and stranded costs revenue requirement

and T&D rate design. In response to our Notice of Investigation, MPS filed its direct case on October 15, 1999. Timely petitions to intervene were granted from the Office of the Public Advocate (OPA), Wheelabrator-Sherman Energy Company, Bangor Hydro-Electric Company (BHE), Central Maine Power Company (CMP), and Houlton Water Company (HWC).<sup>1</sup> The late-filed petitions to intervene on behalf of Pinkham Lumber Company and McCain Foods, Inc. were also granted.

In its direct case filing, MPS determined its T&D revenue requirement (not including stranded costs) to be \$19,337,800. MPS also estimated its stranded costs revenue requirement by assuming its generation asset sale to WPS-PDI was completed and by estimating the revenue for selling the output from its QF contract with Wheelabrator-Sherman.

In response to MPS's direct case, the OPA filed direct testimony proposing revenue requirement adjustments, including different cost allocations between T&D and generation functions and a lower cost of capital. The OPA also filed testimony on rate design. Wheelabrator Sherman filed direct testimony on standby rate design.

After the Company filed its rebuttal case in February, 1999, the Advisors presented a Bench Analysis to the parties on June 21, 1999. The Advisors proposed additional ratemaking adjustments, including the addition of a productivity offset as part of the attrition adjustment. The Advisors also proposed a cost of equity for MPS of 10.7%, based upon a capital structure that included 49% equity.

In its response to the Bench Analysis and surrebuttal testimony, MPS revised its T&D revenue requirement, without stranded costs, to \$17,324,000. After a series of settlement conferences in which the advisors participated, the parties, with the concurrence of the advisors, agreed upon the parameters of a settlement to this investigation. The parties then reduced their oral agreement from the settlement conferences into a written stipulation that was filed with the Commission on October 14, 1999. All parties either joined the stipulation, or at least did not oppose the stipulation, except for McCain. After McCain raised issues concerning the design of a T&D standby rate, additional settlement conferences were held and an amendment to the stipulation was filed on November 18, 1999. After the amendment and some further discussion concerning the interpretation of the present Rate B, counsel for McCain indicated to the Examiner that McCain does not object to the stipulation.

### **III. DESCRIPTION OF THE STIPULATION**

The parties agree that MPS's T&D revenue requirement, excluding stranded costs, shall be \$16,640,000. This T&D revenue requirement is based upon an after-tax, weighted cost of capital of 9.65%, which includes a cost of equity of 10.7% and a 51% equity ratio. The parties also agree that the T&D revenue requirement should be

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<sup>1</sup> The petitions for HWC, BHE and CMP were granted on the understanding that each was merely monitoring the case.

adjusted in an update phase before March 1, 2000. If, before the update is complete, the State Planning Office determines that MPS should increase its DSM expenses beyond the minimum established by statute, that amount should be included in the update. If the DSM spending level is changed after the update phase, MPS shall defer the effect of the increased spending. The T&D revenue requirement should also be adjusted in the update phase for MPS's adjustments to its Flexible Pricing Plan special contracts necessitated by electric restructuring.

The parties agree that T&D rate design should be accomplished using a "top-down" methodology. The top-down methodology means that generation costs will be removed from current rates using standard offer prices, although such prices may be adjusted by the Commission for voltage levels, line losses or other known data.

The parties clarified their agreement as to the proper design of the T&D standby rate in the November 18 amendment. The parties agree that, in accord with the principles established in CMP's T&D rate investigation (Docket No. 97-580), the proper T&D standby rate for MPS should be current Rate B, adjusted to remove generation. The parties agree the workpapers attached to the amendment describe the manner to remove generation costs. By the amendment, the parties also agree that the limitation in the current Rate B to facilities of less than 2MW and a system total limit of 10MW, should be removed in the T&D-only environment.

The parties acknowledge that MPS's stranded costs revenue requirement cannot be calculated until an update phase, after the Wheelabrator-Sherman power output has been auctioned for the first two years of restructuring and the Commission chooses the amortization of the available value from MPS's generation asset sale. The parties do agree, however on some stranded costs recovery principles. The parties agree that MPS's stranded costs, as described in the stipulation, are legitimate, verifiable and unmitigable, and therefore recoverable under the Restructuring Act. The parties agree that MPS can offset available value to recognize the deferred rate increase of 3.66%, authorized in April, 1999 in Docket 98-865. The parties agree that recovery of MPS's regulatory assets associated with its Seabrook investment should not be accelerated, but that MPS will be entitled to offset a portion of its unrecovered Seabrook investment by an amount of MPS's available value, to be determined by the Commission in the update phase, and which in no event will be greater than 50% of the available value. The parties agree that stranded costs associated with Maine Yankee will not include costs related to payments to Texas pursuant to the Low Level Waste Compact nor payments to replenish Maine's Spent Fuel Trust Fund. The parties agree, however, that MPS may defer any payments that MPS must make to Maine Yankee for either of these expenses in the stranded costs rate effective period. MPS also agrees to be bound by the final ruling in CMP's request for an IRS letter ruling with respect to the normalization requirement for the Investment Tax Credits (ITCs) and Excess Deferred Income Taxes (EDITs) associated with the generation assets sold as part of restructuring.

The Advisors have participated in the settlement conferences, and recommend that the Commission approve the Stipulation.

#### IV. DECISION

We have reviewed the stipulation and find that it represents a just and reasonable resolution of the issues raised in this phase of our investigation. Accordingly, we approve the stipulation. The stipulation, therefore, meets one of the criteria we have set for approving stipulations: that the result is reasonable and not contrary to any legislative mandate. The other two criteria are also met. The process that led to the stipulation was fair to all parties; the settlement occurred after all parties had opportunity to develop their cases, and the negotiation took place at a settlement conference initiated by the Advisors to which all parties were invited. Lastly the parties joining the stipulation represent a sufficiently broad spectrum of interests such that the Commission can be sure there is no appearance or reality of disenfranchisement. Our notice of investigation was well publicized, all petitions to intervene were granted, and all intervenors join or at least do not oppose the stipulation.

The parties have agreed to a cost of capital and capital structure almost identical to that recommended by the Advisors in the Bench Analysis. Although the parties have simply agreed to a bottom-line, T&D-only revenue requirement, from reviewing the testimony and Bench Analysis, we can approximate that the parties have implicitly adopted somewhat more than half of the adjustments proposed by the intervenors and the Bench, even after adjusting for the Bench's recommended cost of capital. As the total value of the disputed issues was not large, less than \$500,000 after adjusting for the Advisors' cost of capital, our analysis shows that the compromise reached on the T&D revenue requirement is reasonable.

The stipulation's rate design provisions follow the principles we adopted in CMP's T&D rate investigation, Docket 97-580. We find the rate design provisions to be reasonable. The removal of the limitations in the current standby rate (Rate B), while arguably beyond a strict interpretation of Docket 97-580's "no losers" principle, appears to be a reasonable compromise by MPS in light of the deregulation of generation. We accept the compromise reached by the parties.

We also find the stranded costs principles within the stipulation to be reasonable. The agreement that MPS's stranded costs are legitimate, verifiable and unmitigable is consistent with the evidence in this case and our decision authorizing MPS's sale of generation assets, Docket 98-584. The treatment of stranded costs associated with Seabrook, Maine Yankee, EDITs and ITCs, and the deferred 3.66%, Docket 98-865 rate increase, is reasonable and consistent with our decision in the T&D rate investigations for CMP (Docket 97-580) and BHE (Docket 97-596).

Accordingly, we

**O R D E R**

That the stipulation and amendment to the stipulation, attached to this Order and incorporated by reference into this Order, is approved.

Dated at Augusta, Maine, this 1st day of December, 1999.

**BY ORDER OF THE COMMISSION**

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Dennis L. Keschl  
Administrative Director

**COMMISSIONERS VOTING FOR:**

Welch  
Nugent  
Diamond

State of Maine  
Public Utilities Commission

Docket No. 98-577

October 14, 1999

Public Utilities Commission Re:  
Investigation of Stranded Costs,  
Transmission and Distribution  
Utility Revenue Requirements,  
And Rate Design of Maine Public  
Service Company

Stipulation

\_\_\_\_\_ The undersigned, being parties to this proceeding, agree as follows:

1. Purpose This Stipulation is intended to resolve all of the issues set forth in the Commission's August 3, 1998, Notice of Investigation in this docket regarding the revenue requirement and rate design of Maine Public Service Company's (MPS) Transmission and Distribution Company (the T & D utility). The Stipulation also sets forth general areas of agreement governing the recovery of MPS's stranded costs. As evidenced by their signatures on this Stipulation, the undersigned agree that the terms set forth herein are reasonable and should be adopted by the Commission.

A. Revenue Requirement

- \_\_\_\_\_ 2. Annual T & D Revenues Effective March 1, 2000, the annual jurisdictional revenue requirement (exclusive of any stranded investment recovery) of MPS's T & D utility shall be \$16,640,000, subject to ¶ 4 below.
3. Cost of Capital For the purpose of determining the annual revenue requirement set forth in ¶ 2 above, the parties agree to a weighted, after-tax cost of capital of 9.65% (13.27% on a pre-tax basis), derived as follows:

	Cost of Capital	Capital Component
Equity	10.7%	51%
Long-Term Debt	8.6%	45%
Short-Term Debt	8.0 %	<u>4%</u>
		100%

4. Revenue Requirement Items Subject to Future Adjustment

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- (a) Chapter 380 Expenses. Pursuant to 35-A MRSA 32II, MPS will, prior to March 1, 2000, be obligated to fund certain conservation programs as determined by the State Planning Office (SPO) pursuant to 5 MRSA 3305-B. The revenue requirement set forth in ¶ 2 above reflects MPS's funding of such programs at the stipulated amount of \$157,674. Should the SPO require MPS to fund conservation programs in an amount that varies from this \$157,674 during the rate-effective period then the parties agree that MPS shall be permitted to recover any variation as follows:
1. If the amount of the variation is announced prior to March 1, 2000, MPS may collect that variation through the rates that shall become effective March 1, 2000, by adding that amount to the revenue requirement set forth in ¶ 2.
  2. If the amount of the variation is announced after March 1, 2000, MPS shall defer the variation on its books of account and shall be entitled to recover the variation in rates established in its next general rate case after March 1, 2000.
- (b) Flexible Pricing Adjustment. The revenue requirement set forth in ¶ 2, includes \$473,526 to reflect revenues lost due to MPS's special contracts and discounted rate classes pursuant to its Flexible Pricing Plan authorized by this Commission in Docket 95-052, and is in accordance with the rate making treatment recommended by the June 21, 1999, Bench Analysis in this docket. The calculation of this lost revenue is set forth in Exhibit BMB-1, page 3 of 3 to the August 19, 1999, Supplemental Surrebuttal Testimony of Brent Boyles. The parties agree that the method set forth in BMB-1 is a reasonable method for calculating the revenue requirement resulting from MPS's Flexible Pricing Plan but further agree that the amounts shown in this Exhibit must be recalculated in light of the Rate Design agreements in Subsection B below. The parties therefore agree that MPS shall adjust the revenue requirement set forth in ¶ 2 to reflect this recalculation of the Flexible Pricing adjustment using the method set forth in BMB-1. MPS shall complete the recalculation by November 15, 1999.

B. Rate Design

The parties agree that beginning March 1, 2000, MPS T&D utility rate design shall be based on the following:

5. Top-Down Methodology In order to reduce customer confusion and adverse bill impacts, the parties agree to use a "top-down" methodology as the basis for establishing MPS's core class rate design. This methodology shall be implemented (on a rate-year basis) in the following way:

- (a) The total revenue requirement to be recovered from core customers ("Core Revenue Requirement") will be equal to the Company's total T&D revenue requirement plus the Company's total stranded cost revenue requirement minus the Adjusted Rate-Year Non-Core T&D Revenues.
- (b) The revenue requirement to be recovered from each class will be determined as follows:

$RR_C$  = Core Revenue Requirement

$ClassR_B$  = Revenue from core customers in class at current bundled rates

$ClassR_{SO}$  = For each class, the Core Rate-Year billing units multiplied by the applicable Standard Offer price. The Standard Offer prices may be adjusted using rate class voltage levels, line losses or other known class data as the Commission determines proper.

For each class, the Unbundled Revenue Requirement =

$$ClassR_B - \{[(ClassR_B - RR_C) \times (ClassR_{SO}) / \sum ClassR_{SO}]\}$$

- (c) Within each class, the rate elements will be determined as follows:

$ClassRR_C$  = Unbundled Core Revenue Requirement for that class

$RE_B$  = Bundled Rate Element

$RE_{SO}$  = Standard Offer Rate Element

$BU_{RE}$  = Billing Units for each rate element in that class

For each rate element, the Unbundled rate element =

$$RE_B - \{(ClassR_B - ClassRR_C) \times [(RE_{SO} \times BU_{RE}) / \sum (RE_{SO} \times BU_{RE})] / BU_{RE}\}$$

Where  $\sum RE_{SO} \times BU_{RE}$  = the sum, for that class, of each rate element multiplied by its applicable billing units.



- (d) The Adjusted Rate-Year Non-Core T&D Revenues will be estimated to be \$7,317,000 (as calculated in Appendix A). This value is subject to modification, based on differences between the assumptions in Appendix A and the special rate contracts actually approved by the Commission between now and February, 2000.
- 6. Stand-By Rates All stand-by service, including that provided to generating stations and customers with self-generation, after March 1, 2000, shall, until otherwise ordered by the Commission, be offered by MPS through a rate that consists of MPS's current bundled Rate B from which have been subtracted all generation costs according to the method set forth in ¶ 5 above.
- 7. Demand Ratchet MPS will eliminate all demand ratchets from its rates. Revenue associated with the demand ratchet will be collected through the demand charge.
- 8. Residential Rate A MPS currently has an inverted block structure for its Residential Rate A, which it has proposed to eliminate and replace with a flat rate. The parties agree to defer consideration of this issue until such time as the Standard Offer prices for MPS's service territory and the results of the Chapter 307 auction are announced and MPS's design for core rates has been determined under ¶ 5 above. At that time the parties shall reevaluate the elimination or reduction of MPS's inverted block Rate A subject to the condition that no Rate A customer will see other than a minimal monthly bill increase as a result of the elimination or reduction of the inverted block structure.

C. Stranded Investment

\_\_\_\_\_The parties agree that the precise level of stranded cost recovery cannot be determined until after the results of the Chapter 307 auction of the output of the Wheelabrator-Sherman contract and all costs associated with the sale of the MPS's generating assets are known. In addition, MPS's auditors must complete their examination of the tax calculations and deferred gain in the generation asset sale. The parties do, however, agree on the following principles regarding MPS's stranded cost calculation and further agree those principles shall be reflected in the calculation of the Company's ultimate stranded cost recovery.

- 9. Further Proceeding This Docket shall be held open in order to permit the determination of the exact level of MPS's stranded cost recovery once the terms of MPS's sale of its entitlement to the output of Wheelabrator-Sherman under Chapter 307 are known. This determination should be made before February 1, 2000. The stranded investment then calculated shall use a rate effective period of two years.
- 10. Stranded Investment MPS's stranded costs consist of: (i) the above-market value of the Wheelabrator-Sherman Power Contract; (ii) the Company's remaining unamortized investment in the Seabrook Nuclear Project; (iii) costs incurred for the buy-down of the Wheelabrator-Sherman Contract; (iv) Deferred fuel costs

from the Wheelabrator-Sherman Contract and Maine Yankee as permitted by the Rate Stabilization Plan approved in Docket 95-052 are estimated and reflected in Exhibit SLB-3, page 4 to the Surrebuttal Testimony of Messrs. LaPlante and Brown; (v) MPS's continuing obligation for its share of operating expenses of Maine Yankee, including its share of decommissioning, as well as its recovery of its remaining investment in Maine Yankee and (vi) other regulatory assets as allowed by this Commission in other proceedings. The parties agree that those stranded investments are legitimate, verifiable and unmitigable as of the date of this Stipulation. Recoverable stranded investment will be determined in the proceeding described in ¶ 9.

11. Seabrook MPS shall continue to amortize its unrecovered investment in the Seabrook Nuclear Unit over the period authorized by the Commission in Docket Nos. 84-80 and 84-113. Contemporaneously with the beginning of stranded investment recovery on March 1, 2000, MPS shall be entitled to offset a portion of its unrecovered Seabrook stranded investment by an amount of MPS's available value, which amount shall be determined in the proceeding referred to in ¶ 9, and which shall not exceed 50% of the available value.
12. Maine Yankee The parties agree that Exhibit SLB-4 to the Surrebuttal Testimony of Messrs. LaPlante and Brown fully and finally reflects all adjustments required to be made to Maine Yankee stranded investment on account of any issue (whether the subject of an extant settlement or otherwise) of prudence or reasonableness with regard to the ownership, operation, management or any other matter related to Maine Yankee (including any settlement between Maine Yankee and any consumer-owned utilities) and that no further adjustment to the totals shown on that Exhibit shall be made on account of such issues, except for adjustments required by orders or settlements in being as of the date of this Stipulation. The parties agree that the Maine Yankee stranded investment calculation shown on SLB-4 must be adjusted by removing any costs of the ISFSI collections and Texas low level waste compact payments that have been included in that calculation. If such costs are charged to MPS after March 1, 2000, MPS may defer those costs and shall be entitled to seek their recovery in rates in the next general rate case.
13. Docket 98-865 MPS shall offset available value to reflect the recognition of a foregone 3.66% rate increase as authorized by the Commission in Docket 98-865.
14. Certain Taxes As An Offset To Stranded Investment MPS's sale of certain generating assets to WPS-PDI has raised an issue concerning MPS's unamortized Investment Tax Credits (ITCs) and Excess Deferred Income Taxes (EDITs) that have been recorded with respect to those assets. MPS has stated that recognizing ITCs and EDITs as regulatory assets to offset stranded investment would violate the normalization requirements of the Internal Revenue Code, although the IRS has not yet issued a definitive opinion in this matter in the context of electric restructuring and the mandated sale of generating assets. This same issue was

addressed in Docket 97-580 in which the Commission ordered CMP to obtain from the IRS a private letter ruling on this matter. MPS has reviewed CMP's request for a private letter ruling and agrees to be bound by any final definitive ruling on this issue.

15. Stranded Investment Rate Design MPS shall allocate its recoverable stranded investment among customer classes on a "top-down" approach, in the manner set forth in ¶ 5 (b) and (c).
16. Docket 98-138 Cap In Docket 98-138, the Commission stated the need to create an ROE margin that could be added to an index of water utilities to determine a maximum future cost of equity for MPS should a representative peer group of electric utilities be unavailable. The parties agree that this margin should be 185 basis points above the index of proper water utilities.
17. Stipulation Not Precedential The making of this Stipulation by the parties shall not constitute precedent as to any matter of law or fact, nor, except as provided herein, shall it prevent any party from making any contention or exercising any right, including rights of appeal, in any other Commission proceeding or investigation or any other trial or action.
18. Construction of Stipulation The parties agree that this Stipulation shall be considered by the Commission as an integrated solution to the issues addressed herein and shall be null and void and shall not bind the parties if the Commission does not accept it without modification.

In Witness Whereof, the Parties have caused this Stipulation to be signed by their respective attorneys.

October 14, 1999

MAINE PUBLIC SERVICE COMPANY

By

\_\_\_\_\_  
Stephen A. Johnson, General Counsel

October , 1999

OFFICE OF THE PUBLIC ADVOCATE

By

\_\_\_\_\_  
Stephen G. Ward. Public Advocate

October , 1999

WHEELABRATOR-SHERMAN ENERGY COMPANY

By

\_\_\_\_\_  
Patrick J. Scully

October , 1999

MCCAIN FOODS

By

State of Maine	)	Docket No. 98-577
Public Utilities Commission	)	
	)	
Public Utilities Commission	)	November 18, 1999
Re: Investigation of Stranded Costs,	)	
Transmission and Distribution Utility	)	First Amendment to Stipulation
Revenue Requirements and Rate Design	)	
of Maine Public Service Company	)	

Maine Public Service Company, the Office of the Public Advocate and Wheelabrator-Sherman Energy Company hereby amend the October 14, 1999 Stipulation in the above, to which they are the sole signatories, as follows:

1. Under Section B(5) add a new final paragraph:  

"Notwithstanding any of the foregoing, the parties intend to remove all production costs from all energy and demand components of MPS's core rates, including Rate B, as illustrated by MPS in its response to HE-Oral-1, which is attached hereto and made a part hereof."
2. Under B(6), add a new final sentence:  

"In addition, MPS, for rates effective under this Stipulation, shall eliminate both the 2 MW per facility and 10 MW total system limitations contained in the current Rate B."
3. Except as expressly amended above, the Stipulation remains in full force and effect.
4. The Office of the Public Advocate and Wheelabrator-Sherman Energy Company

have orally agreed to this amendment and have authorized MPS to state that agreement.

Dated: November 18, 1999

MAINE PUBLIC SERVICE COMPANY

By

Stephen A. Johnson  
Vice President

Its